IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 17964 of 2006(L)

(IN E.P. NO. 102/2004 IN O.S. NO. 533/2002 OF MUNSIFF'S COURT, KOCHI)

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PETITIONER:

K.P. ANTONY, S/O. PETER,
AGED 55 YEARS, RESIDING AT KALAPARAMBIL HOUSE,
NEAR GOVT. HOSPITAL, KACHERIPADY, PALLURUTHY,
KOCHI-6.

BY ADV. SRI.PROMY KAPRAKKATT.

RESPONDENTS:

1. **EBEN-EZER KURIES & ENTERPRISES,**
   THOPPUMPADY, KOCHI-5, REP. BY ITS MANAGING PARTNER
   K.JOSEPH, S/O. ANTONY, AGED 48 YEARS, RESIDING AT
   CC.16/1648, WELFARE ROAD, THOPPUMPADY, KOCHI-5.

2. **K.V. GEORGE, AGED 53 YEARS,**
   S/O. K.P. VARKEY, RESIDING AT H.NO.20/159,
   `RAJATH HOME', DEEPAM JUNCTION, PALLURUTHY.

BY ADV. SRI.P.T.JOSE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.17964/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 05/07/2006 BY THE MUNSIFF'S COURT, KOCHI IN E.P. 102/2004 IN O.S. NO. 533/2002 AS SEEN FROM THE A DIARY.

EXT.P.2: COPY OF THE INSOLVENCY PROCEEDINGS NO. 3/2006 DTD. 29/03/2006.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.17964 OF 2006

.....

DATED THIS THE 3RD JULY, 2007

J U D G M E N T

Ext.P1 impugned in this Writ Petition under Article 227 of the Constitution by the 2nd judgment-debtor before the execution court is an order by which the court has directed the petitioner to be committed to civil prison. This Court on admitting the Writ Petition directed release of the petitioner from the civil prison upon executing a bond with two sureties undertaking to appear before the execution court as and when required by that court. This Court also ordered that the petitioner shall furnish security for the E.P. claim to the satisfaction of the court below within one month from 10.7.2006. The learned counsel for the petitioner submits that the above conditions have been complied with by the petitioner. The counsel further submitted that even as learned Munsiff passed the impugned order, Ext.P2 insolvency petition was pending before the Insolvency Court. It was without noticing Ext.P2 that the impugned order was passed. The above submissions of the petitioner are not resisted by anybody.

2. According to me, the interim order issued by this Court on 10.7.2006 grants him the relief which he could have aspired for in this Writ Petition. The above interim order is made absolute. The Writ

Petition is disposed of directing the petitioner to seek further reliefs, if any, from the Insolvency Court. No costs.

(PIUS C.KURIAKOSE, JUDGE)

tgl